

BOARD OF APPEALS CASE NO. 5172

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BEFORE THE

APPLICANT: Lorraine Tiekert

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an existing 5-6
foot high fence within the front yard in an R1
District; 2404 Laurel Bush Road, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/22/01 & 8/29/01

HEARING DATE: November 7, 2001

Record: 8/24/01 & 8/31/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Lorraine Tiekert, is requesting a variance, pursuant to Section 267-24B(1) of the Harford County Code, to allow an existing fence to be more than four (4) feet in height (five [5] to six [6] feet existing) in the front yard in an R1/Urban Residential District.

The subject parcel is located at 2405 Laurel Bush Road and is more particularly identified on Tax Map 56, Grid 3E, Parcel 528, Lot 5. The parcel consists of 2.192± acres, is zoned R1 and is entirely within the First Election District.

The Applicant, Ms. Lorraine Tiekert, appeared and testified that she contracted to have her fence built around the entire perimeter of her property. The fence was designed primarily for privacy and security and the Applicant assumed that the permit was obtained by the contractor in 1987 when it was built. In order to achieve a uniform height to the top of the fence, that is, a level appearance, the actual fence height varies in conformity with the variable elevation of the land. Using a number of photos, the Applicant described her property and the fence. The parcel is densely wooded with mature hardwood trees. The property is sloped and drainage areas had to be added to prevent erosion. There are gardens surrounding the house and the appearance is much like a woodland park. Because of the number and size of the mature trees on the property, the fence appears to blend in and is not readily visible in many areas.

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The fence does not extend across the rear of the property. The fence, according to the Applicant, blocks the noise from the traffic which she described as heavy. Additionally, a shorter fence would not provide the necessary security that she desires. In the opinion of the witness, there are no adverse impacts to any neighboring property as a result of her fence and its height.

Mr. Joseph Wright appeared and stated that he lives next door to the Applicant at 2408 Laurel Bush Road. He has lived next to the subject property for 10 years and has no objection to the fence or its height. Mr. Wright testified that the fence is set back far enough that there is no interference with sight distance when leaving his property or the Applicant's property in an automobile. The witness said that the Applicant's fence is welcomed because it acts to keep the noise from the road minimized.

Mr. Dennis Reiman appeared and testified that he lived adjacent to the Applicant's property at 203 Old Woodland Way. He just sold his property but testified that he had no problems with the fence, thought it looked very good and that it reduced noise. Because of the extensive foliage to the property, the fence can hardly be noticed by passersby.

The Department of Planning and Zoning finds the parcel topographically unique and supports the application.

There were no persons who appeared in opposition to the Applicant's request.

CONCLUSION:

The Applicant, Lorraine Tiekert, is requesting a variance, pursuant to Section 267-24B(1) of the Harford County Code, to allow an existing fence to be more than four (4) feet in height (five [5] to six [6] feet existing) in the front yard in an R1/Urban Residential District.

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Section 267-24B(1) provides:

“Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.”**

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."**

The Hearing Examiner finds that the property has topographic characteristics unique in this immediate area. The parcel is in an area of Harford County within the development envelope and is surrounded by townhouse communities, residences, community center, condominiums and garden apartments. This property is rather large compared to others in the immediate area and is heavily landscaped and boasts a mature stand of dense hardwood forest. The Hearing Examiner finds the property unique in several aspects.

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The fence itself is not obtrusive, does not impair sight distance and has no adverse impacts associated with it. For the most part, it is not visible and there have been no issues with this fence since it was built in 1987 and completed 7 years ago. It would impose a hardship on the Applicant in terms of financial, aesthetic and loss of security and privacy if the fence were to be removed.

The Hearing Examiner recommends approval, subject to the Applicant obtaining the necessary permits and inspections.

Date NOVEMBER 27, 2001

William F. Casey
Zoning Hearing Examiner